

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

2017 MAR 27 PM 12: 26

DEPUTY CLERK.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

MICHAEL McGRAW, PRO SE,  
TDCJ-CID No. 662807,

Plaintiff,

V.

JASON HEATON, Region V Director, TDCJ,

Defendant.

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2:16-CV-0152

## ORDER OF DISMISSAL

Plaintiff MICHAEL McGRAW, acting *pro se*, while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed a civil lawsuit complaining against the above named defendant in Texas Justice of the Peace Court. Defendant HEATON removed the case to federal court. HEATON filed a Motion to Dismiss for Failure to State a Claim and plaintiff McGRAW filed a Motion to Remand to the Justice Court.

On March 9, 2017, the Magistrate Judge issued a Report and Recommendation analyzing the Motion to Dismiss and recommending dismissal with prejudice as frivolous and without prejudice for failure to state a claim. The Magistrate Judge further recommended denial of the Motion to Remand filed by the plaintiff.

No objections to the Report and Recommendation have been filed, and the response period has expired.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that

the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that Defendant HEATON's Motion to Dismiss be GRANTED. It is ORDERED that the civil complaint by plaintiff MICHAEL McGRAW be DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM, and DISMISSED WITH PREJUDICE AS FRIVOLOUS. It is ORDERED that plaintiff's Motion to Remand be DENIED.

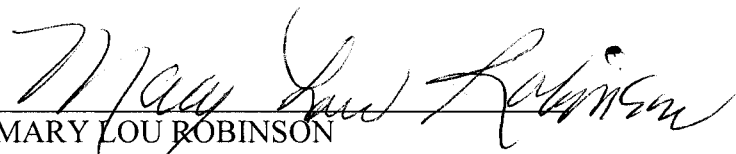
LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record by first class mail.

All other pending motions are DENIED.

IT IS SO ORDERED.

Signed this the 27<sup>th</sup> day of March, 2017.

  
MARY LOU ROBINSON  
United States District Judge